



The Comptroller General
of the United States

Washington, D.C. 20548

Melody

Decision

Matter of: Allied-Signal Aerospace Company--Request for
Reconsideration
File: B-228951.2
Date: June 22, 1988

DIGEST

Request for reconsideration is denied where protester fails to show error of law or fact in original decision holding that sole-source award to only firm qualified to manufacture a particular aircraft part under a new specification was justified in view of the expected cost savings and safety concerns about the part currently in use.

DECISION

Allied-Signal Aerospace Company requests reconsideration of our decision Allied Signal, Inc., Garrett AiResearch, B-228591, Feb. 25, 1988, 88-1 CPD ¶ 193, denying its protest of the sole-source award by the Air Force to Curtiss-Wright Flight Systems, Inc. of contract No. F09603-84-G-1386 for 2,374 leading edge flap actuators for the F-16 aircraft. We deny the request for reconsideration.

As explained in detail in our original decision, the F-16 aircraft has eight leading edge flap actuators which adjust wing flap position. The original actuators produced by Allied, which are still in use, were initially qualified for an 8,000 hour flight life by the Air Force and General Dynamics, the F-16 prime contractor. As a result of mission changes causing greater than expected stress on the actuators, the Air Force and General Dynamics decided that the original actuators would be replaced at 1,500 hours. At the request of the Air Force, General Dynamics developed a specification for a new configuration actuator, known as the ECP 1258, which is to have an 8,000 hour life. According to the Air Force, since the expected life of the F-16 aircraft is also 8,000 hours, ECP 1258 actuators will not have to be replaced.

To determine which firms would supply actuators based on the new configuration, in 1984 General Dynamics conducted a prototype test of actuators produced by Curtiss-Wright,

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Allied and Sundstrand, Inc. Only Curtiss-Wright met the requirements of ECP 1258, including the 8,000 hour life. The Air Force subsequently awarded a sole-source contract to Curtiss-Wright for delivery of 2,374 ECP 1258 actuators from January 1989 to January 1990. The contract includes a capital equipment clause which states that Curtiss-Wright will purchase \$11,782,000 worth of capital equipment required for production of the actuators. The clause provides that Curtiss-Wright will allocate the capital cost of the equipment over an additional 14,000 actuators and that to the extent the firm is not awarded contracts for the additional actuators, the government will reimburse Curtiss-Wright for the unamortized cost of the equipment, which will become government property.

In its protest, Allied argued that the sole-source award to Curtiss-Wright was not justified since Allied itself is a viable alternate source for the actuators. As explained in detail in our initial decision, we found that the sole-source award was justified since the Air Force reasonably determined that it required the ECP 1258 actuator to meet its minimum needs in view of the expected cost savings resulting from the longer useful life of the new actuator and safety concerns about the Allied actuator currently in use.

In its request for reconsideration, Allied challenges the propriety of the sole-source award to Curtiss-Wright based on events of which Allied states it only recently became aware. Specifically, Allied states that after the award to Curtiss-Wright, the Air Force canceled the ECP 1258 specification and ordered a total of 2,848 ECP 1257 actuators from Allied. In Allied's view, these actions demonstrate that Curtiss-Wright is not qualified to produce the ECP 1258 actuator and that Allied is a viable alternate source for actuators which meet the Air Force's needs. As explained below, we see no basis in Allied's current argument to disturb our prior decision.

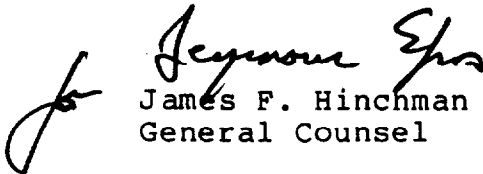
While conceding that the ECP 1258 specification has been canceled, the Air Force states that the configuration of the actuator remains unchanged and that the specification was revised solely to add more stringent testing criteria. According to the Air Force, the revision caused a delay in delivery of new actuators which General Dynamics, the F-16 prime contractor, planned to install in a group of production aircraft; as a result of the delay, General Dynamics ordered an additional quantity of Allied actuators. The delayed delivery which prompted General Dynamics' order did not involve the actuators ordered from Curtiss-Wright by the Air Force under the contract at issue in the protest. In fact, the Air Force states that the delivery schedule for

those actuators has been accelerated from January 1989 to July 1988. Accordingly, we see no merit to Allied's argument that the change in the new actuator specification and the order for additional Allied actuators demonstrate that the sole-source award to Curtiss-Wright was improper, since the specification change was unrelated to the basic configuration of the new actuator and the order placed by General Dynamics was simply to fill an interim need for actuators. Neither action in our view provides a basis to question the Air Force's original decision to make a sole-source award for the new actuator based on its longer life and safety concerns with the actuators currently in use.

Allied also challenges the conclusion in our original decision that only Curtiss-Wright was qualified to produce the ECP 1258 actuator. As explained in our decision, based on the prototype testing only Curtiss-Wright met the requirements of ECP 1258. Beyond its general contention that Curtiss-Wright was not qualified, Allied provides no evidence that our conclusion was erroneous. Moreover, the fact that additional test criteria subsequently were added to the original specification does not necessarily call into question Curtiss-Wright's performance under the prototype test.

Finally, Allied argues that the equipment reimbursement provision in the Curtiss-Wright contract will prejudice any future award for the actuators to any contractor other than Curtiss-Wright. Contrary to Allied's position, there is nothing inherently improper in the reimbursement provision. Rather, to the extent that future competitions for the new actuators are held, the Air Force will be responsible for taking steps to eliminate to the maximum extent practicable any competitive advantage to Curtiss-Wright resulting from the reimbursement provision.

The request for reconsideration is denied.


James F. Hinchman
General Counsel